

Message Text

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FM AMEMBASSY SAN SALVADOR

TO SECSTATE WASHDC PRIORITY 9854

INFO AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY TEGUCIGALPA

AMEMBASSY SAN JOSE

C O N F I D E N T I A L SAN SALVADOR 5213

E.O. 11652: N/A

TAGS: ECON ES

SUBJECT: DRAFT INSURANCE LAW WOULD PROHIBIT OPERATION OF FOREIGN FIRMS

REF: STATE A-116, JAN 5, 1973

1. EMBASSY HAS OBTAINED COPY OF DRAFT INSURANCE LAW WHICH WOULD PROHIBIT OPERATION OF FOREIGN INSURANCE COMPANIES IN EL SALVADOR. FOLLOWING ARE PROVISIONS OF DRAFT WHICH AFFECT FOREIGN COMPANIES:

ART 12 - AT LEAST 60 PERCENT OF CAPITAL OF INSURANCE COMPANY MUST BE HELD BY (A) PERSONS OF SALVADORAN OR CENTRAL AMERICAN ORIGIN, PROVIDED COUNTRY OF ORIGIN OF LATTER PROVIDES RECIPROCITY, OR (B) BY JURIDICAL PERSONS FORMED EXCLUSIVELY BY ABOVE MENTIONED NATURAL PERSONS, OR BY SALVADORAN NON-PROFIT ORGANIZATIONS.

ART. 13 - COMPANIES MUST REPORT NATIONALITY OF SHAREHOLDERS TO GOES.

ART 48 - COMPANIES MAY REINSURE WITH ENTITIES NOT ESTABLISHED IN EL SALVADOR.

ART. 80 - UPON IMPLEMENTATION OF LAW, FOREIGN COMPANIES MUST IMMEDIATELY CEASE OPERATIONS BUT MUST CONTINUE TO MEET ALL OBLIGATIONS INCURRED WITHIN EL SALVADOR.

ART 81 - FOREIGN COMPANIES MUST LIQUIDATE ALL ASSETS AND LIABILITIES WITHIN EL SALVADOR AND SUBMIT, WITHIN THREE

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MONTHS, PLAN SHOWING HOW ASSETS AND LIABILITIES WILL BE

TRANSFERRED TO SALVADORAN ENTITIES.

2. THERE ARE PRESENTLY FOUR FOREIGN INSURANCE COMPANIES OPERATING IN EL SALVADOR, OF WHICH THREE ARE US: THE HANOVER INSURANCE COMPANY OF NEW YORK, PAN AMERICAN LIFE INSURANCE COMPANY, AND THE AMERICAN LIFE INSURANCE COMPANY. ROYAL INSURANCE OF UK IS FOURTH FOREIGN FIRM. LAW ESSENTIALLY WOULD GIVE THESE FIRMS OPTION OF LIQUIDATING SALVADORAN ASSETS AND LIABILITIES OR CONDUCTING OPERATIONS HERE THROUGH SALVADORAN FIRMS.

3. MINISTRY OF ECONOMY HAS PROVIDED COPIES OF DRAFT LAW TO SALVADORAN INSURANCE ASSOCIATION FOR COMMENT. LOCAL COMPANIES HAVE FOUND MUCH OBJECTIONABLE IN NEW LAW, WHICH WOULD PUT THEM UNDER MORE STRICT GOVERNMENT CONTROL THAN AT PRESENT.

4. LOCAL REPRESENTATIVES OF ALL US COMPANIES HAVE CONTACTED THE EMBASSY TO EXPRESS THEIR CONCERN ABOUT PROPOSED LAW AND REQUEST APPROPRIATE EMBASSY ASSISTANCE. EMBASSY HAS INDICATED IT WAS REPORTING MATTER TO WASHINGTON AND REQUESTING INSTRUCTIONS. WE URGED COMPANIES TO WORK WITH LOCAL FIRMS THROUGH INSURANCE ASSOCIATION TO INFLUENCE GOES TO AMEND PROVISIONS AFFECTING FOREIGN COMPANIES TO MAKE THEM ACCEPTABLE BASIS FOR OPERATING IN EL SALVADOR. HANOVER/AMERICAN REP WAS DOUBTFUL LOCAL COMPANIES WOULD SUPPORT FOREIGN COMPANIES IN LAST ANALYSIS. HE INDICATED HIS COMPANY HAS NOT FOUND MINORITY PARTICIPATION A SATISFACTORY ARRANGEMENT IN OTHER COUNTRIES. PAN AMERICAN REP, IN SEPARATE CONVERSATION, SAID HIS COMPANY WOULD PROBABLY CONTINUE TO OPERATE AS SALVADORAN FIRM, IF LAW WERE ENACTED, BUT EXPRESSED DISMAY AT HARSHNESS OF TREATMENT OF FOREIGN FIRMS.

5. IN EMBASSY'S VIEW, ANY ACTION WE TAKE ON BEHALF OF USOR COMPANIES MUST COME PRIOR TO PRESENTATION OF LAW FOR CONSID-

ERATION BY ASSEMBLY, SINCE RUBBERSTAMP TREATMENT THERE IS HIGHLY PROBABLE. GIVEN DATE SET FOR RECEIVING INDUSTRY'S COMMENTS, GOVERNMENT COULD CONCEIVABLY PRESENT DRAFT LAW TO ASSEMBLY AS EARLY AS LATE JANUARY. EMBASSY PREPARED TO MAKE REPRESENTATION ALONG LINES REFERENCE WITH DEPT'S CONCURRENCE. WE WOULD APPRECIATE ANY ADDITIONAL GUIDANCE WHICH DEPT CONSIDERS WOULD BE EFFECTIVE IN MAKING OUR CASE TO GOES. SINCE TIMING IS OF ESSENCE, WE REQUEST URGENT REPLY.

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6. COPY OF DRAFT LAW BEING POUCHED.
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